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STATE OF WASHINGTON

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Supreme Court No. 84921-8

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**SUPREME COURT  
OF THE STATE OF WASHINGTON**

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Mukilteo Citizens for Simple Government,

Appellant,

v.

City of Mukilteo, Christine Boughman, Snohomish County, Carolyn  
Weikel, Nicholas Sherwood, Alex Rion, Tim Eyman,

Respondents.

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**BRIEF OF RESPONDENTS  
CAROLYN WEIKEL AND SNOHOMISH COUNTY**

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**I. ARGUMENT**

**A. SNOHOMISH COUNTY RESPONDENTS  
TAKE NO POSITION ON THE VALIDITY  
OF MUKILTEO INITIATIVE NO. 2**

Before the trial court, Respondents Carolyn Weikel and Snohomish County ("County Respondents") did not take any position on the substantive issues Appellant Citizens for Simple Government ("Citizens") presented to the court. Likewise, the County Respondents take no position in this Court on the issues raised by Citizens: whether the trial court erred in determining that review of Mukilteo Initiative No. 2 before the November 2, 2010, general election is premature and whether the subject matter of the initiative is not subject to local initiative.

**B. THIS CASE MAY BECOME MOOT**

The County Respondents wish only to reiterate their concerns regarding the timing of the Court's decision in this matter in light of Respondent Carolyn Weikel's responsibilities in carrying out the November 2, 2010, general election. The relief Citizens seek against the County Respondents is an injunction prohibiting the placement of Mukilteo Initiative No. 2 on the ballot. (CP-107) On September 10, 2010, Respondent Weikel will take action to

initiate the printing of the November 2, 2010, general election ballots. (CP-44). Those ballots will contain Mukilteo Initiative No. 2 unless an injunction is entered on or before September 10, 2010, that prevents inclusion of the initiative on the ballot.

The timing of the printing of the ballots is driven by requirements of federal law. The Military and Overseas Voter Empowerment Act requires that ballots for voters serving in the U.S. armed forces in active service and ballots for voters living overseas must be mailed out at least 45 days before the election. 42 U.S.C.A. § 1973ff-1. In the case of the November 2, 2010, general election, the ballots must be mailed by no later than September 17, 2010, in order to meet this federal deadline. As indicated by Respondent Weikel in the trial court, in order to meet this mailing deadline, she must submit the ballot designs to the printer not later than September 10, 2010. (CP-44, 45)

If the ballots are printed with the inclusion of Initiative No. 2, this case will become moot as to Citizens' claims against the County Respondents. A case is moot if the court cannot provide any effective relief. In re Swanson, 115 Wn.2d 21, 24, 804 P.2d 1 (1990); State ex rel. Jones v. Byers, 24 Wn.2d 730, 167 P.2d 464

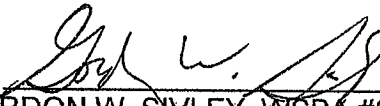
(1946). Once the ballots are prepared, the only remedy Citizens seek against the County Respondents will no longer be available.

## II. CONCLUSION

The County Respondents do not take any position on the merits of Citizens' appeal. However, this case will become moot as to Citizens' claims against the County Respondents after September 10, 2010.

Respectfully submitted this 23<sup>rd</sup> day of August, 2010.

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